IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.236 OF 2006

Bhagyanand Packaging Industries, Satara ...Appellant
Vs.
Maharashtra State Distribution
Company Ltd. Satara ...Respondent

Mr Sugandha B. Deshmukh for the Appellant.
Ms A.R.S.Baxi for the Respondent.

CORAM : A. S. OKA, J.
DATE : APRIL 12, 2006.

P.C.:

1. Heard the learned Advocates appearing for the parties. The learned Advocate appearing for the Appellant pointed out that the statutory Appeal preferred by the Appellant challenging the final assessment is pending before the Chief Engineer, Kolhapur of the Maharashtra State Electricity Board. He stated that the Appellant has deposited a sum of Rs.90,043/- on 02nd November, 2005 in the first Appellate Court. He submitted that the Appellant may be permitted to withdraw this Second Appeal with liberty to prosecute the Statutory Appeal before the Chief Engineer, Kolhapur. He submitted that the Chief Engineer may be directed to decide the Appeal on its own merits without being influenced by the impugned judgments and decrees.

2. The learned Advocate appearing for the Respondent stated that the Appeal pending before the Chief Engineer can be disposed of within period of four weeks from today. She submitted that the amount of Rs.90,043/- deposited by the Appellant in the first Appellate Court may be allowed to be withdrawn by the Respondent.

3. Considering the submissions made before me, I pass the following order:

(i) The Appellant is permitted to withdraw the Second Appeal with liberty to prosecute Statutory Appeal pending before the Chief Engineer, Kolhapur of the Maharashtra State Electricity Board.

(ii) The Chief Engineer will decide the Appeal on its own merits without being influenced by the findings recorded by Trial Court and the first Appellate Court. The Appeal will be decided as expeditiously as possible and preferably within period of four weeks from the date on which

authenticated copy of this order is produced before Chief Engineer.

(iii) Till the disposal of the Appeal the electricity supply to the Appellant will not be discontinued. If the decision in the Appeal is adverse to the Appellant, the supply will not be discontinued for a period of four weeks from the date of communication of the adverse order to the Appellant.

(iv) The Respondent is permitted to withdraw a sum of Rs.90,043/- deposited by the Appellant in first Appellant Court. It is obvious that the withdrawal of the said amount will be subject to final outcome of the Appeal pending before the Chief Engineer.

(v) There will be no orders as to costs.

(vi) All concerned to act upon an authenticated copy of this order.

JUDGE